

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Kendrick Braswell,)
)
 Plaintiff,) C/A No. 2:12-2677-RMG
)
 v.) **ORDER**
)
 Asset Management & Consulting)
 Services, Inc., d/b/a Palmetto Point)
 Apartments, Inc.,)
)
 Defendants.)
)

This matter is before the Court on the Report and Recommendation, ("R&R"), of the Magistrate Judge recommending dismissal of this now-*pro se* plaintiff's employment discrimination action with prejudice. (Dkt. No. 30). For the reasons set forth below, the Court adopts the R&R as the order of the Court, GRANTS Defendants' pending motion for sanctions including dismissal, (Dkt. No. 27), and DISMISSES this action with prejudice.

Background

This action was filed by Plaintiff's counsel on September 17, 2012. (Dkt. No. 1). The matter was referred to a Magistrate Judge in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) DSC for all pretrial proceedings.

Plaintiff's counsel moved to withdraw on December 20, 2012. (Dkt. No. 14). Plaintiff did not oppose or object to counsel's withdrawal, and so has since been regarded as proceeding *pro se*. (Dkt. Nos. 15, 20, and 23). In the time since counsel's withdrawal, Plaintiff has not contacted the Court in any way, has failed to cooperate with Defendant in discovery and has failed to comply with court orders. (Dkt. No. 30 at 2).

On May 10, 2013, Defendants filed a motion for sanctions, including dismissal. (Dkt. No. 27). On May 13, 2013, the Magistrate Judge issued an order, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), directing the clerk to forward an explanation of the motion to Plaintiff. (Dkt. No. 28). Further, the order directed Plaintiff to respond to the motion by June 17, 2013. (*Id.*). After no response was received from Plaintiff, on July 3, 2013, the Magistrate Judge issued the R&R recommending that Defendants' motion be granted and this action be dismissed with prejudice. (Dkt. No. 30). Plaintiff filed no objections to the R&R.

Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). This Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). In reviewing these pleadings, the Court is mindful of its charge to construe liberally the pleadings of this *pro se* litigant. *See, e.g., De 'Lonta v. Angelone*, 330 F.3d 630, 633 (4th Cir. 2003).

Discussion

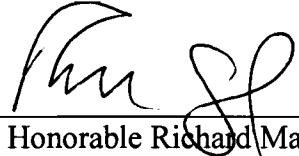
The Magistrate Judge dutifully reviewed the pleadings, accurately summarized the law, and correctly concluded that the Court should dismiss this action. (Dkt. No. 30). Despite warnings from the Magistrate Judge that the claim would be dismissed, Plaintiff has failed to respond to Defendants' motion and repeated discovery requests. Indeed, Plaintiff has not contacted the Court in any way since the withdrawal of his counsel in December 2012, (Dkt. No. 14), indicating either dilatory action or abandonment of the claim. Finally, given the Magistrate Judge's prior explicit warning that dismissal would be recommended if the Plaintiff failed to

respond, dismissal is the only appropriate sanction. Accordingly, the Magistrate Judge correctly recommended that the Court find Plaintiff has satisfied all the criteria for dismissal set forth in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982). (Dkt. No. 30 at 3-4).

Conclusion

After careful review of the record, the Magistrate Judge's R&R, and the applicable law, this Court adopts the R&R as the order of this Court. Accordingly, the Court GRANTS Defendants' motion for sanctions including dismissal, (Dkt. No. 27), and DISMISSES this action with prejudice.

AND IT IS SO ORDERED.



The Honorable Richard Mark Gergel
United States District Court Judge

August 6, 2013
Charleston, South Carolina